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S E C R E T SECTION 01 OF 04 TEGUCIGALPA 000056

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TAGS: [PGOV](#) [KCRM](#) [SOCI](#) [HO](#)

SUBJECT: CONGRESS PUSHES THROUGH NEW COURT, RESISTS THREATS
FROM ZELAYA

REF: A. TEGUCIGALPA 53

[1](#)B. TEGUCIGALPA 33

[1](#)C. TEGUCIGALPA 29

[1](#)D. TEGUCIGALPA 15

Classified By: AMBASSADOR HUGO LLORENS, REASON 1.4 (D)

[1](#)1. (S) Summary: Congress elected a new Supreme Court, taking all candidates from a list supplied by the Nominating Board (reftel), minutes before its constitutional deadline the night of Sunday, January 25. Congress successfully resisted intense pressure from President Manuel "Mel" Zelaya to elect one or more members from the existing court, who had not been approved by the Board. This pressure included private threats from Zelaya to Congressional leaders to declare a state of exception if a court was not picked, and threats of military intervention from at least two of his advisors. The Ambassador met with the major players of both parties and urged compromise; he made it clear to Zelaya, first privately and then in front of other political leaders, that threats of a break in constitutional order were unacceptable and would be rejected by Washington and the democratic community. The election was a triumph for Honduran democracy and jurisprudence. The result weakened Zelaya, although several coming events, such as the election of the new Attorney General, could once again trigger a new crisis. The events of the weekend demonstrate in striking manner an emerging disregard by Zelaya for democratic form and substance and require a recalibration of our approach to him. End Summary.

[1](#)2. (C) Congress received the final list of 45 candidates for the new Supreme Court from the Nominating Board Friday, January 23, with a deadline to elect the 15 court members by Sunday, January 25. The vote required a two-thirds majority, meaning that support from both the major parties, the Liberals and Nationalists, was required. The Liberal Party came under intense pressure from President Zelaya to elect at least one member from the present court not on the list of [1](#)45. Congress President Roberto Micheletti, Liberal Party presidential nominee Elvin Santos, former Liberal Party President Carlos Flores, and other party members agreed to the request. (In fact, Micheletti has long argued that Congress has a right to reelect court members without the Board's approval.) The National Party, however, held firm to its position that only candidates from the Board's list could be elected.

13. (S) Zelaya's pressure on Liberal Party Congressional leaders was intense on Saturday. Zelaya told them that if a new court was not elected by midnight Sunday, he had authority to declare a state of emergency (basically, rule by decree). Various versions of the threat had Zelaya saying he would select his own court, disband Congress, and/or call for a Constituent Assembly to rewrite the constitution (leading to fears that he would seek to remain in office beyond his term). Micheletti and Santos both reported directly to the Ambassador that Minister of Defense Aristides Mejia had gone to the Congressional chambers and directly threatened military action if a court was not selected. Micheletti said that he had angrily rejected the threat. Another Congress member reported a similar threat from Minister of the Presidency Enrique Flores Lanza.

14. (S) Following his conversation with Micheletti and Santos, the Ambassador called President Zelaya to express in the strongest terms our grave concern over these threats Saturday afternoon (January 24). Zelaya told the Ambassador that there was no chance of a military intervention, but that he believed that there was a threat to constitutional order if Congress failed to appoint a new court on January 25 as stipulated in the Constitution. Never acknowledging that he instructed his Ministers to level the military threat, Zelaya added that he was simply putting as much pressure on Congress as possible to get it to come to a decision. The Ambassador emphasized that he knew that several of his Ministers had directly threatened Congressional leaders and suggested that

TEGUCIGALP 00000056 002 OF 004

further threats of this type threatened to precipitate a crisis in Honduran relations with the U.S. and the new Administration of President Obama. The Ambassador added that the USG believed that failure to name a court on the established date would not cause a break in constitutional.

15. (C) Following requests from Santos and other Liberal Party leaders, the Ambassador, DCM, PolCoun, DATT, and GRPO officer met with Nationalist Party leader and presidential candidate Porfiro "Pepe" Lobo and several of his advisors at the Ambassador's residence the evening of January 24 to discuss the situation. The Ambassador urged Lobo to consider the option of allowing one current member (not nominated by the Board) to be elected in order to avoid a rupture with Zelaya. Lobo held firm to his belief that the entire court had to be drawn from the Board-nominated list. He said that his party believed that it had all of civil society on its side, in addition to the other three small political parties represented in the Congress. He agreed, however, to meet the following day with the Ambassador, Zelaya, and other Liberal Party leaders to discuss the issue.

16. (S) The Ambassador and DCM attended a four-hour meeting the afternoon of January 25 with Zelaya, Micheletti, Santos, Carlos Flores, Lobo, and several of their advisors to try and reach an agreement on the election of the judges, with a deadline then less than 12 hours away. The Liberals held a common front pushing Lobo to accept one candidate from Zelaya. Zelaya argued that the Constitution allowed Congress to reelect justices from the current Court, as well as those selected from the Board. Lobo avoided debating Zelaya on the legality of the issue and argued that he had made a formal pledge to civil society groups to select nominees only from the list provided by the Board. He stressed that backing away from this position would be catastrophic to his political fortunes and terminally doom his presidential campaign. He said he would only consider changing his position if he had support to do so from civil society leaders in Honduras, including Cardinal Oscar Rodriguez Madariaga. Zelaya again threatened a break in constitutional order, with his attending advisor, Flores Lanza, arguing that the President had the right to name his own court at 12:01 a.m. the following day, once the deadline had passed, and

could cause a breakdown in constitutional order that could lead to a need for a constituent assembly. Others at the meeting, including those on the Liberal side, acted angrily to the threat. The Ambassador then intervened, saying that such threats were totally unacceptable for the U.S. and that the DCM and he could not remain in the meeting if this issue remained part of the discussion. Zelaya then agreed to withdraw the suggestion. Nevertheless, the talks made no further progress and the President and Flores Lanza eventually left. At this point, Liberals and Nationalists drew together and agreed that the main problem was Zelaya's insistence on the one candidate. Micheletti took the opportunity to draw the DCM aside, asking him to tell the Ambassador that there would not be a constitutional crisis as he would call a vote before midnight; if he did not have the votes to elect Zelaya's candidate, he would accept the Nationalist Party position for all 15 to come from the Board's list, explaining that his chief concern was to support the democratic process.

¶17. (C) Following the meeting, the Ambassador and Carlos Flores met with Cardinal Rodriguez to urge him to support Lobo should the latter agree to change his position. The Cardinal agreed to do so; nevertheless, Lobo held firm.

¶18. (C) Congressional leaders met through the evening, amidst reports that Zelaya was attempting to convince enough members not to attend in order to avoid a quorum. Television shots showed the chamber with the Nationalist side full of members and the Liberal side mostly empty. Several sources reported that Zelaya's advisors were meeting with Liberal Party leaders. Shortly after 10:30, a large number of Liberal

TEGUCIGALP 00000056 003 OF 004

Party members entered the chamber, followed by Micheletti, who then called the chamber to order. Micheletti introduced a bill calling for the election of 15 court members all drawn from the Board's list. Several members then spoke; when one thanked Micheletti for his efforts to preserve democracy, both sides of the chamber jumped to their feet, cheering and clapping in a spontaneous show of support. Shortly after 11:30 the Congress approved the list as suggested by Micheletti.

¶19. (C) One source reported that Zelaya backed off his demand when he realized that he could not win and instead asked that the final list of 15 be changed to include several of his supporters from the list of 45 and that Congressional leaders agreed to this request.

¶10. (U) Three of the 15 elected to the court were participants in Embassy International Visitor programs: Tomas Arita Valle, FY88, RP-Foreign Policy; Jacobo Calix, FY06, RP-Transparency and Good Governance in the U.S.; and Rosalinda Cruz Sequira, FY97, RP-Civic Education.

¶11. (S) Throughout the evening, there were rumors of possible military action. DATT and GRPO officer stayed in close contact with their contacts, urging that they support constitutional order. While the military leadership met and discussed the political situation, it appears that throughout the events of the weekend no/no action was taken to mobilize troops and that there was no/no real threat of military involvement. While General Romeo Vasquez (the Joint Chief) stated in conversations with the Ambassador and the DATT that while the situation was "delicate," no actions were taken to ready troops or even inform mid-level commanders.

¶12. (S) Senior Liberal and Nationalist Party leaders called the Ambassador and PolCoun late yesterday evening to thank the Embassy for its intervention. Specifically helpful, several of them stated, was the Ambassador's intervention in the Sunday afternoon meeting over Zelaya's threat of a rupture in Constitutional order; they said this was pivotal in keeping the President in check. Several press stories commented on the Sunday afternoon meeting and the Embassy's

role in helping prevent the crisis. We have not acknowledged publicly our participation in any of these meetings.

¶13. (S) Comment: The court election was a victory for Honduran democracy. First of all, the country now has a better court selected by a remarkably transparent process involving many sectors of civil society (a process supported by USAID). Secondly, Honduran politicians, from both parties, came together against threats against the constitutional order. Micheletti is the real hero of the day, first for standing up against the initial threats and then for giving up his own position (that court members could be reelected without Board approval) in order to assure that the court was elected by the deadline and that Zelaya would have no excuse to intervene. Military leaders also deserve praise for maintaining their composure and agreeing, at least among themselves, that they would not be drawn in.

¶14. (S) Comment continued: Zelaya is the real loser here. He played his cards very badly. His insistence that the missing the deadline meant a rupture in constitutional order forced Micheletti to abandon the president's position in order to make sure he met the deadline. Zelaya's threats antagonized senior members of both parties, and showed a disregard for democratic form and substance. The threats also weaken our relationship with him, although Zelaya remained available to speak to the Ambassador and to meet with us throughout the weekend and was always calm and even deferential. For example, at our insistence, the following day he denied that he had sought to involve the military. Nevertheless, in light of the government's behavior, we do not believe that it would be appropriate to grant Cabinet level meetings in his planned mid-February trip to Washington and suggest that he be met at the Under or Assistant Secretary level. While

TEGUCIGALP 00000056 004 OF 004

we will continue to maintain a constructive relationship with him on all key political, security and economic issues on our agenda, we now plan to work more closely with other political leaders to prepare for future contingencies. The next issue will most likely be the selection of a new Attorney General (an independent position elected by the Congress in Honduras) in early March.

¶15. (S) Comment continued: One of the major disappointments to come out of this situation was the role played by Minister of Defense Mejia (recently selected to take over the role of Vice President as of February 1). Mejia not only carried Zelaya's message to Congressional leaders, but was the official that directly threatened the Congressional leaders with military action. To date, Mejia has been a moderating force in this otherwise volatile government. His stance on this issue puts in question the close contacts with have maintained with him.

LLORENS